

Department of Veterans Affairs

§ 21.53

§ 21.52 Serious employment handicap.

(a) *Requirement of determination of serious employment handicap.* A separate determination whether a serious employment handicap exists shall be made in each case in which an employment handicap is found.

(Authority: 38 U.S.C. 3106(a))

(b) *Definition.* The term *serious employment handicap* means a significant impairment of a veteran's ability to prepare for, obtain or retain employment consistent with such veteran's abilities, aptitudes, and interests.

(Authority: 38 U.S.C. 3101(7))

(c) *Serious employment handicap exists.* A veteran who has been found to have an employment handicap shall also be held to have serious employment handicap if he or she has:

(1) A neuropsychiatric service-connected disability rated at thirty percent or more disabling; or

(2) Any other service-connected disability rated at fifty percent or more disabling.

(d) *Serious employment handicap may exist.* A veteran with a nonneuropsychiatric service-connected disability may be found to have a serious employment handicap even though the disability is rated at thirty or forty percent disabling, when either of the following conditions exists:

(1) The veteran has a prior history of poor adjustment in training and employment, and special efforts will be needed if the veteran is to be rehabilitated; or

(2) The veteran's situation presents special problems due to nonservice-connected disability, family pressures, etc., and a number of special and supportive services are needed to effect rehabilitation.

(e) *Serious employment handicap normally not found.* A finding of serious employment handicap will normally not be made when a veteran's service-connected disability is rated at less than thirty percent disabling. A finding of serious employment handicap may nevertheless be made when:

(1) The veteran's service-connected disability has caused substantial peri-

ods of unemployment or unstable work history;

(2) The veteran has demonstrated a pattern of maladaptive behavior which is shown by a history of withdrawal from society or continuing dependency on government income support programs; and

(f) *Responsibility for determining serious employment handicap.* A counseling psychologist in the Vocational Rehabilitation and Employment Division shall make determinations of serious employment handicap.

(Authority: 38 U.S.C. 3106(a))

[49 FR 40814, Oct. 18, 1984, as amended at 54 FR 37332, Sept. 8, 1989]

§ 21.53 Reasonable feasibility of achieving a vocational goal.

(a) *Requirement.* The Department of Veterans Affairs shall determine the reasonable feasibility of achieving a vocational goal in each case in which a veteran has either:

(1) An employment handicap, or

(2) A serious employment handicap.

(Authority: 38 U.S.C. 3106(a))

(b) *Definition.* The term *vocational goal* means a gainful employment status consistent with the veteran's abilities, aptitudes, and interests.

(Authority: 38 U.S.C. 3101(8))

(c) *Expeditious determination.* The determination of reasonable feasibility shall be made as expeditiously as possible when necessary information has been developed in the course of initial evaluation. If an extended evaluation is necessary as provided in § 21.57 a decision of feasibility shall be made by the end of the extended evaluation. Any reasonable doubt shall be resolved in favor of a finding of feasibility.

(Authority: 38 U.S.C. 3105(d))

(d) *Vocational goal is reasonably feasible.* Achievement of a vocational goal is reasonably feasible for a veteran with either an employment or serious employment handicap when the following conditions are met:

(1) Vocational goal(s) has (have) been identified;